

REMARKS

This Amendment is submitted together with a Request for Continued Examination in response to the final rejection office action dated November 6, 2003. Applicant greatly appreciates the Examiner's approval of the new title, approval of changes to the drawings, withdrawal of 35 U.S.C 112(2) rejection for antecedent basis, withdrawal of 35 U.S.C. 112(2) rejection for an omnibus claim, withdrawal of 35 U.S.C. 101 for non-statutory matter, and approval of amendment to the specification. However, Claims 1-30 are now rejected on new grounds under 35 U.S.C. 102(e) as being anticipated by Spitzenberger et al. (US Patent No. 5,930,209) (hereinafter Spitzenberger).

In response, the following remarks are submitted to specifically address the Examiner's rejections.

35 USC Section 102(e) Rejections

Spitzenberger describes a copy protection technique for CD-ROMs (column 1, lines 8-10, lines 18-43, column 3, lines 40-45, Figure 6, column 7, lines 25-31, Figure 7, column 8, lines 12-34), which uses a plurality of marked address labels (claims 1, 9, and 11), the presence of which indicates whether or not a CD is available for copying (i.e., copy protected) (column 11, lines 38-39). If a marked address label is present, a recording apparatus is prevented from recording the content of the CD (claim 9, column 12, lines 34-36). If a marked address label is not present, a playback apparatus is prevented from playing the content of the CD (claim 11, lines 49-52). In other words, Spitzenberger teaches encoding marked address labels into a

CD-ROM disc as a "signature" to indicate whether the disc is copy protected.

Conversely, the present invention teaches a copy protection technique that takes advantages of the operation differences between audio players and readers. (page 1 lines 16-30, claims 1, 8, 12, and 19) There are many formats for optical discs. The exemplary embodiment in the specification involves two important formats for CDs namely the digital audio compact disc (CD-DA) and CD-ROM. CD-DA carries music or other audio and which can be played in simple audio players, for example, incorporated in hi-fi systems or music systems (e.g., car stereo) (page 4, lines 20-29). CD-ROM carries computer data and may also carry video and audio (page 5, lines 10-16). CD-ROMs require much more sophisticated readers such as the CD-ROM drive in a computer. As such, while a CD-DA disc can be read/played by both an audio player and a reader (page 5, lines 18-27), a CD-ROM disc can only be read/played by a reader (page 5, lines 10-13). Audio players have little or no capability to be used in digital copying. However, CD-ROM readers, which are often associated with computers, can be used to read and copy audio data.

The present invention identifies the different control information which is used by a simple audio player and by a CD-ROM reader. The present invention then teaches encoding onto the disc (e.g., CD-DA disc) errors in the control data (claims 1, 8, 12, and 19, page 6, lines 6-7). The erroneous data is specifically selected to have no adverse effect on the play of the disc by an audio player but to have negative effects on any use of the disc by the reader (claims 1, 8, 12, and 19, page 6, lines 6-17).

The idea of encoding a disc with selected errors that have different effects on different types of access devices when these devices try to access the information on the disc is neither disclosed nor contemplated in Spitzenberger. While Spitzenberger teaches preventing playback when a marked address label (e.g., an introduced error) is not present and preventing recording when a marked address label is present, Spitzenberger does not teach introducing errors that have no adverse effect on the play of the disc by an audio player but negatively effect the play of the disc by the reader (e.g., CD-ROM driver. Moreover, because Spitzenberger is limited to a CD-ROM technique, the CD-ROM disc implementing the technique taught by Spitzenberger cannot be played in an audio player but may be played/read by a reader depending on the presence of the "signature". This is the opposite of the present invention which, due to the introduced errors, has no effect on an audio player playability while adversely effects a reader. As such, in additional to being clearly distinguishable from Spitzenberger, the present invention teaches away from Spitzenberger.

More specifically, independent method claims 1 and 8 recite:

"... rendering selected control data incorrect ... such that an audio player is able to play the audio data, whereas the incorrect control data negatively effects the playability of the audio data in a data reader." (emphasis added)

Similarly, independent apparatus claims 12 and 19 recite:

"...selected control data has been rendered incorrect ... such that an audio player is able

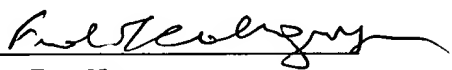
to play the audio data, whereas the incorrect control data negatively effects the playability of the audio data in a data reader." (emphasis added)

Accordingly, it is submitted that independent claims 1, 8, 12, and 19 and their associated dependent claims are clearly distinguished from, and is not anticipated by Spitzenberger.

Accordingly, reconsideration of claims 1-30 is respectfully requested, and an early indication of their allowability is earnestly solicited. Should the Examiner have any questions or comments, he is encouraged to call Applicants' attorney, Frank D. Nguyen, at (408) 562-8424 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted

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